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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of:	)	
	)	
THE COMMISSIONER OF BUSINESS	)	CRMLA LICENSE NO.: 413-0789
OVERSIGHT,	)	
	)	
Complainant,	)	ACCUSATION
	)	
v.	)	
	)	
GATEWAY MORTGAGE GROUP, LLC,	)	
	)	
Respondent.	)	

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The Complainant, the Commissioner of Business Oversight (Commissioner), is informed and believes, and based upon such information and belief, alleges and charges Respondent Gateway Mortgage Group, LLC (Gateway) as follows:

**I.**

**Introduction**

1. Gateway is a residential mortgage lender and servicer licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code § 50000 et seq.). Gateway has its principal place of business located at 244 South Gateway Place, Jenks, Oklahoma 74037. Draper has 30branch locations under its CRMLA license in California and elsewhere.

ACCUSATION

1 Gateway employs mortgage loan originators in its CRMLA business.

## 2 II.

### 3 Per Diem Interest Overcharges

4 2. On or about June 22, 2017, the Commissioner, by and through staff, commenced a  
5 regulatory examination of the books and records of Gateway under the CRMLA (2017 regulatory  
6 examination). The 2017 regulatory examination disclosed that in 3 of 21 funded loans reviewed, or  
7 approximately 14.3%, Gateway was charging the borrower per diem interest in excess of one day  
8 prior to the disbursement of loan proceeds in violation of California Financial Code section 50204,  
9 subdivision (o). The per diem interest overcharges averaged \$41.45 per loan. The range of per diem  
10 interest overcharges was between \$6.99 and \$75.80. The range of days that interest was overcharged  
11 was between 1 and 2 days.

12 3. On or about February 16, 2018, Gateway was instructed to conduct a self-audit of all  
13 loans originated in California since June 28, 2013 to determine the number and amount of per diem  
14 interest overcharges. Gateway was further instructed to file, no later than March 8, 2018, a report on  
15 the per diem interest self-audit, which report was to be in Microsoft Excel format and include for  
16 each loan; the borrower loan number, name, address, loan amount, loan date, interest rate,  
17 disbursement date, date per diem interest commenced, per diem charged, daily per diem interest  
18 amount, number of days per diem interest charged, number of days per diem interest overcharged,  
19 overcharge amount (if applicable), date of refund (if applicable), and proof of refund (if applicable)  
20 (self-audit report).

21 4. On or about March 30, 2018, Gateway submitted its self-audit report to the  
22 Commissioner. The self-audit report contained numerous columns including one entitled “refund  
23 due” which disclosed 295 per diem interest overcharges and another column entitled “true refund”  
24 which disclosed 112 per diem interest overcharges. There was no explanation offered regarding the  
25 differences between these two columns. The self-audit report also failed to include the 10% interest  
26 for borrower refunds or the refund check numbers and dates.

27 5. On or about May 1, 2018, Gateway was informed in writing that its self-audit report  
28 was insufficient. Gateway was directed to file a complete self-audit report and to further include

documentation on 11 selected loans for purposes of sampling.

6. On or about May 18, 2018, Gateway submitted a revised self-audit report. In the cover letter, Gateway stated that it had found 77 per diem interest overcharges out of 691 loans. However, the self-audit report, which continued to contained columns entitled “refund due” and “true refund” did not agree with Gateway’s cover letter as the “refund due” column disclosed 112 per diem interest overcharges and the “true refund” which disclosed 81 per diem interest overcharges. The revised self-audit report still failed to include refund check numbers and dates and incorrectly calculated interest on the refunds. Too, the self-audit report disclosed no overcharge in two of the three overcharges found by the Commissioner’s staff during the regulatory examination. Accordingly, Gateway’s self-audit was deemed unreliable by the Commissioner.

7. In testing the accuracy of the self-audit, the Commissioner found that Gateway had provided an incorrect disbursement date on the self-audit report in 5 out of the 11 loans (45.45%) selected for sampling. The sampling further confirmed the unreliability of the self-audit.

### III.

#### CRMLA Suspension/Penalty Statutes

8. Financial Code section 50327 provides in pertinent part:

(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license, if the commissioner finds that:

(1) the licensee has violated any provision of this division or rule or order of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

9. Financial Code section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator

has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.

(c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (\$25,000).

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

#### IV.

#### Conclusion

10. The Commissioner finds that, by reason of the foregoing, Gateway Mortgage Group, LLC has repeatedly violated Financial Code section 50204, subdivision (o), and based thereon, grounds exist to (i) suspend the residential mortgage lender and servicer licenses of Gateway Mortgage Group, LLC and (ii) assess penalties against Gateway Mortgage Group, LLC pursuant to Financial Code section 50513, subdivision (b).

#### V.

#### Prayer

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender and servicer licenses of Gateway Mortgage Group, LLC be suspended for a period of up to 12 months; and

2. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against Gateway Mortgage Group, LLC for at least 83 violations of Financial Code sections 50504, subdivision (o), overcharging per diem interest, according to proof, but in an amount of at least \$1,000.00 per violation.

Dated: August 21, 2018  
Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
Judy L. Hartley  
Senior Counsel  
Enforcement Division